

AN ACT
RELATING TO EDUCATION; ENACTING THE STUDENT ALTERNATIVES
ACT; PROVIDING ALTERNATIVE EDUCATIONAL OPPORTUNITIES FOR
HIGH SCHOOL DROPOUTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--Sections 1 through 9 of this act may be cited as the "Student Alternatives Act".

Section 2. DEFINITIONS.--As used in the Student Alternatives Act:

- A. "board" means the student alternatives board;
- B. "department" means the department of finance and administration;
- C. "school alternative" means a:
 - (1) governmental entity, including the New Mexico youth conservation corps public school or a charter school, that enters into a contract with the department to provide alternative educational opportunities for students;
 - (2) secondary school located in New Mexico, operated by an Indian nation, tribe or pueblo or by the bureau of Indian affairs of the department of the interior; or
 - (3) nonprofit corporation or for-profit corporation that contracts with the department to provide alternative educational opportunities for students; and
- D. "student" means a person between the ages of fourteen and eighteen who has been disenrolled from a public school for any reason or whose attendance or conduct indicates that he may not meet graduation requirements provided in Section 22-2-8.4 NMSA 1978.

Section 3. PILOT PROJECT--ALTERNATIVE EDUCATION.--

A. The department shall solicit proposals for a pilot program to provide alternative educational opportunities for students statewide, with special consideration given to proposals to serve the fifteen high schools with the highest annual dropout rate in the state as determined by the state department of public education. The department shall evaluate responses to its solicitation for proposals and provide recommendations to the board. In addition, the department shall monitor the performance of school alternatives.

B. The pilot program shall run until June 1, 2004.

Section 4. ALTERNATIVE EDUCATION--STUDENTS.--

A. The department shall enter into a contract with each school alternative to provide educational services for students. The contract shall contain a provision that provides for a salary increase for any teacher employed at a school alternative whose students show exemplary improvement in academic achievement or attendance. The contract shall also contain a provision that provides more funding to any school alternative whose students, based on an independent analysis, demonstrate exemplary academic achievement and attendance.

B. Students enrolled in a school alternative shall be held to the graduation requirements provided in Section 22-2-8.4 NMSA 1978. School alternatives shall provide students with transcripts.

C. School alternatives may contract for services, including transportation, emergency medical services, food

services and security, necessary to provide educational services to students.

D. School alternatives may operate on the same site as a public school.

E. Except as provided in Section 22-10-3.3 NMSA 1978, school alternatives shall be exempt from the requirements of the School Personnel Act.

F. School alternatives shall maintain records of student attendance, retention, academic achievement and the number of students who pass the New Mexico high school competency examination.

G. School alternatives shall be evaluated by the board on the basis of student attendance, retention, academic achievement and the number of students who pass the New Mexico high school competency examination.

H. School alternatives shall enroll no less than one hundred students and no more than two hundred students.

Section 5. BOARD--FUNDING.--

A. The "student alternatives board" is created.

B. The board shall be comprised of:

(1) two public members to be appointed by the speaker of the house of representatives;

(2) two public members to be appointed by the president pro tempore of the senate;

(3) two representatives of Indian nations, tribes or pueblos located in New Mexico who are experts in educational issues to be appointed by the Commission on Indian Affairs;

(4) two representatives of the business community to be appointed by the governor;

(5) two members of the state board of education to be appointed by the president of the state board of education; and

(6) three members of the education community to be appointed by the governor.

C. The members of the board shall:

(1) elect a president, secretary and treasurer; and

(2) adopt such rules as may be necessary and appropriate to implement the Student Alternatives Act, including:

(a) the application process for entities that seek to operate school alternatives;

(b) school alternative contracts;

(c) the admission process for at-risk students who attend school alternatives;

(d) the health and safety of at-risk students who attend school alternatives;

(e) the terms and conditions of employment of employees of school alternatives;

(f) the disbursement of funds to school alternatives; and

(g) the monitoring and evaluation of the performance of school alternatives.

D. The department shall staff the board.

E. The board shall:

(1) review proposals submitted by applicants to become school alternatives;

(2) allocate funding to the school alternatives selected;

(3) ensure that no more than twenty-five percent of available funding is allocated to any one school alternative; and

(4) evaluate the performance of school alternatives.

F. The board shall report annually to the state board of education, legislative finance committee, the legislative education study committee and the office of the governor prior to October 15.

Section 6. APPLICATION TO OPERATE A SCHOOL ALTERNATIVE.--

A. The application process to operate a school alternative shall require the applying entity to provide information, including the following:

- (1) identity of the applying entity;
- (2) name and location of the school alternative;
- (3) academic focus and curriculum of the school alternative;
- (4) support service that will be provided by the school alternative;
- (5) school year for the school alternative;
- (6) target population of at-risk students that the school alternative will be designed to serve;
- (7) projected enrollment of at-risk students at the school alternative;
- (8) composition, qualifications and method of selection of the governing body of the school alternative;
- (9) qualifications and areas of expertise

of persons who will provide services to at-risk students at the school alternative;

(10) strategies for achieving parental and community involvement in the operation of the school alternative; and

(11) proposed budget for each school year of the school alternative contract.

B. If the board denies an application for a school alternative, the board shall provide the unsuccessful applicant with a written statement explaining the basis for the denial. An unsuccessful applicant for a school alternative may reapply.

Section 7. SCHOOL ALTERNATIVE CONTRACTS.--

A. If the board approves an application a school alternative, the department and the successful applicant shall enter into a school alternative contract.

B. There shall be a provision in the school alternative contract establishing criteria for evaluating the performance of the school alternative, which shall include:

(1) retention, attendance and academic achievement of at-risk students; and

(2) financial management of the school alternative.

Section 8. RIGHTS AND OBLIGATIONS OF SCHOOL ALTERNATIVES.--

A. A school alternative shall:

(1) comply with the provisions of the Student Alternatives Act, the rules adopted by the board and the school alternative contract;

(2) comply with the following provisions of the Public School Code:

(a) Sections 22-1-6 and 22-1-7 NMSA 1978;

(b) Section 22-2-8.4 NMSA 1978;

(c) Sections 22-10-3 through 22-10-4 and 22-10-22 NMSA 1978; and

(d) Sections 22-12-1 through 22-12-8 NMSA 1978;

(3) not charge at-risk students for education services, support services or materials; and

(4) provide, without charge, transportation for at-risk students residing within a two mile radius of the alternative school.

B. A school alternative shall comply with the rules of the state board of education regarding content standards and benchmarks.

Section 9. ADMISSION OF AT-RISK STUDENTS TO SCHOOL ALTERNATIVES.--

A. A person shall be eligible to participate in the at-risk school alternative's pilot program if he:

(1) qualifies as an at-risk student under the Student Alternatives Act and the rules adopted by the board; and

(2) complies with the application process established by the board.

B. Except as provided in Subsection C of this section, a school alternative shall admit all eligible at-risk students who apply for admission, provided that if the number of such applicants exceeds the number of available

spaces, a school alternative shall select eligible at-risk students on a random basis.

C. A school alternative may:

(1) limit admission to a targeted population of at-risk students, provided that such limitation may not discriminate on the basis of race, national origin, gender or religion; and

(2) give priority for admission to at-risk students who were enrolled in the school alternative during the previous school year.

Section 10. Section 22-10-3.3 NMSA 1978 (being Laws 1997, Chapter 238, Section 1, as amended) is amended to read:

"22-10-3.3. BACKGROUND CHECKS.--

A. An applicant for initial certification or for employment in a school alternative shall be fingerprinted and shall provide two fingerprint cards or the equivalent electronic fingerprints to the department of education to obtain the applicant's federal bureau of investigation record. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act. Other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the denial, suspension or revocation of a certificate for good and just cause. Records and any related information shall be privileged and shall not be disclosed to a person not directly involved in the certification or employment decisions affecting the specific applicant. The applicant for initial certification shall

pay for the cost of obtaining the federal bureau of investigation record.

B. Local school boards and the student alternatives board shall develop policies and procedures to require background checks on an applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students. An applicant for employment who has been initially certified within twelve months of applying for employment with a local school board or a school alternative shall not be required to submit to another background check if the department of education has copies of his federal bureau of investigation records on file. An applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students shall provide two fingerprint cards or the equivalent electronic fingerprints to the local school board to obtain his federal bureau of investigation record. The applicant who has been offered employment, contractor or contractor's employee with unsupervised access to students may be required to pay for the cost of obtaining a background check. At the request of a local school board or the student alternatives board, the department of education is authorized to release copies of federal bureau of investigation records that are on file with the department of education and that are not more than twelve months old. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act; provided that other information contained in the federal bureau of investigation record, if supported by independent

evidence, may form the basis for the employment decisions for good and just cause. Records and any related information shall be privileged and shall not be disclosed to a person not directly involved in the employment decision affecting the specific applicant who has been offered employment, contractor or contractor's employee with unsupervised access to students." _____

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